

The opinion in support of the decision being entered today was *not* written for publication and is *not* binding precedent of the Board.

Paper No. 20

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte WERNER HUBER, HARALD BUCHER, WOLFGANG GEISSLER,
BERND KISTLER, GUENTHER UHLIG, and HANS-PETER GROSSMANN

Appeal No. 2000-1502
Application No. 08/643,597

ON BRIEF

Before THOMAS, BARRY and BLANKENSHIP, *Administrative Patent Judges*.

BARRY, *Administrative Patent Judge*.

DECISION ON APPEAL

The examiner rejected claims 1-8. The appellants appeal therefrom under 35 U.S.C. § 134(a). We reverse.

BACKGROUND

The invention at issue in this appeal relates to detecting defects in an image produced by a sheet-fed printing press. Heretofore, images produced by sheet-fed printing

presses have been inspected manually. (Spec. at 1.) Manual inspection, however, is time consuming. (*Id.*)

In contrast, the appellants' invention divides printed image data representing a printed image from a sheet-fed printing press into inspection areas; the printed image is inspected in a multiplicity of inspection areas without overlapping. For each inspection area, printed image data are compared with nominal image data of a defect-free image. If the comparison detects a defect, the associated inspection area is designated as effective. Consequently, the location of the defect is found rapidly.

Claim 1, which is representative, follows:

1. A device for inspecting a printed image on a printed sheet in a sheet-fed printing press, comprising:

a monitor for displaying a multi-colored printed image;

an image detecting device that furnishes actual image data of a printed sheet, and a comparison circuit comparing the actual image data with master image data from a defect-free master image, dividing means for performing a preselectable division of the multi-colored printed image into inspection areas, and wherein if a defect is detected by the comparison circuit the associated inspection area is

designated as being defective and displayed on the monitor; and

an overlay frame wherein the associated inspection area of the defect of the multi-colored printed image is designated on the monitor by said overlay frame.

The prior art applied by the examiner in rejecting the claims follows:

Zingher et al. ("Zingher")	5,014,618	May 14, 1991
Hashimoto et al. ("Hashimoto")	5,187,376	Feb. 16, 1993
Zabele	5,712,921	Jan. 27, 1998

(effectively filed June 17, 1993).

Claims 1, 2, and 5-7 stand rejected under 35 U.S.C. § 103(a) as obvious over Zabele in view of Zingher. Claims 3, 4, and 8 stand rejected under § 103(a) as obvious over Zabele in view of Zingher further in view of Hashimoto.

OPINION

After considering the record, we are persuaded that the examiner erred in rejecting claims 1-8. Accordingly, we reverse.

Rather than reiterate the positions of the examiner or appellants *in toto*, we address the main point of contention therebetween. The examiner asserts, "Zabele shows . . . an overlay frame wherein the associated inspection area of the defect of the printed image is designated on the monitor by said overlay frame (note col. 11, lines 48-58)." (Examiner's Answer at 3-4.) The appellants argue, "[n]either Zabele nor Zingher et al. disclose the overlay frame of claim 1 or have any suggestion or motivation to provide such a frame around a defective inspection area." (Appeal Br. at 12.)

In deciding obviousness, "[a]nalysis begins with a key legal question -- *what is the invention claimed?*" *Panduit Corp. v. Dennison Mfg. Co.*, 810 F.2d 1561, 1567, 1 USPQ2d 1593, 1597 (Fed. Cir. 1987). "Claims are not interpreted in a

vacuum, but are part of and are read in light of the specification." *Slimfold Mfg. Co. v. Kinhead Indus., Inc.*, 810 F.2d 1113, 1116, 1 USPQ2d 1563, 1566 (Fed. Cir. 1987)(citing *Hybritech Inc. v. Monoclonal Anti-bodies, Inc.*, 802 F.2d 1367, 1385, 231 USPQ 81, 94-95 (Fed. Cir. 1986); *In re Mattison*, 509 F.2d 563, 565, 184 USPQ 484, 486 (CCPA 1975)).

Here, independent claim 1 specifies in pertinent part the following limitations: "an overlay frame wherein the associated inspection area of the defect of the multi-colored printed image is designated on the monitor by said overlay frame." Figure 1 of the specification shows that a frame 14 is used to enclose a specific inspection area 13 of an overall image displayed on a monitor 18 to designate that the area contains a defect. Reading the independent claim in light of the specification, the limitations require *inter alia* designating a defect in an overall image displayed on a monitor by framing the specific portion of the image that contains the defect.

Having determined what subject matter is being claimed, the next inquiry is whether the subject matter is obvious. "In rejecting claims under 35 U.S.C. Section 103, the examiner bears the initial burden of presenting a *prima facie* case of obviousness." *In re Rijckaert*, 9 F.3d 1531, 1532, 28 USPQ2d 1955, 1956 (Fed. Cir. 1993)(citing *In re Oetiker*, 977 F.2d 1443, 1445, 24 USPQ2d 1443, 1444 (Fed. Cir. 1992)). "'A *prima facie* case of obviousness is established when the teachings from the prior art itself would appear to have suggested the claimed subject matter to a person of ordinary skill in the art.'" *In re Bell*, 991 F.2d 781, 783, 26 USPQ2d 1529, 1531 (Fed. Cir. 1993) (quoting *In re Rinehart*, 531 F.2d 1048, 1051, 189 USPQ 143, 147 (CCPA 1976)).

Here, although Zabele uses an overlay to designate a defect in an image displayed on a monitor, it does not do so by framing the specific portion of the image that contains the defect. To the contrary, we agree with the appellants that "Zabele *superimposes (overlays) two images* (see col. 11, lines

55-58)." (Appeal Brief at 11.) Specifically, "[t]he operator can optionally overlay the error image on top of the test image in contrasting color to identify the location of individual errors within the test image. . . ." Col. 11, ll. 55-57.

Relying on Zingher to "teach[] color printing in an analogous art for use with inking control," (Examiner's Answer at 4), and Hashimoto to "teach[] determining inspection areas having sides in x-direction [sic] being equal to the ink zone width of color zones of the inking unit in an analogous art for the purpose of detecting print defects," (*id.* at 6), the examiner fails to allege, let alone show, that these references cure the defect of Zabele. Therefore, we reverse the rejection of claim 1 and of claims 2-8, which depend therefrom.

CONCLUSION

In summary, the rejection of claims 1-8 under § 103(a) is reversed.

REVERSED

JAMES D. THOMAS)	
Administrative Patent Judge)	
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)	BOARD OF PATENT
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)	INTERFERENCES
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HOWARD B. BLANKENSHIP)	
Administrative Patent Judge)	

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APPLICATION NO. 08/643,597

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DRAFT SUBMITTED: 15 Nov 02

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For any additional reference provided, please prepare PTO 892 and include copy of references

Thanks,
Judge Barry